

# Quid Novi

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McGILL UNIVERSITY FACULTY OF LAW  
FACULTE DE DROIT UNIVERSITE MCGILL

January 29, 1985  
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## THE CONSTITUTIONAL CONTROVERSY

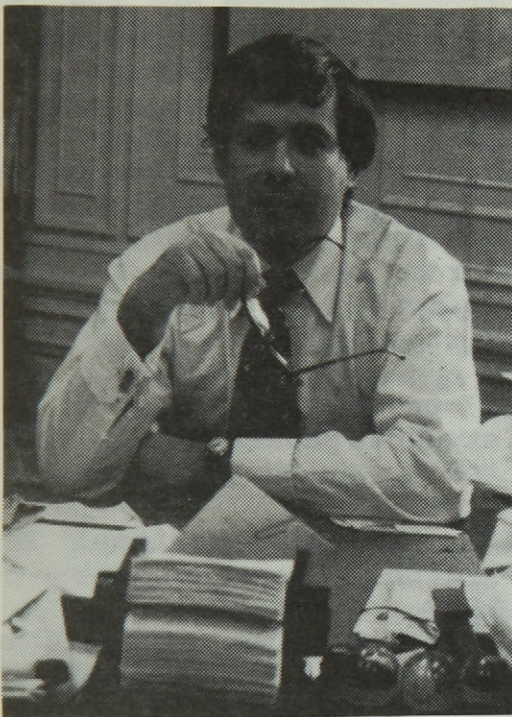
by Joe Kary  
Debbie Raicek, and  
Lisa Steinberg

One group of students were kept waiting a bit longer for their results when grades were posted on Wednesday January 15th. The results from Professor Scott's Constitutional I class went up a day late, after having been changed in the faculty marks meeting. Scott disassociated himself from the revised grades. Both Prof. Cotler, Scott's co-examiner, and Prof. Durnford, the Chairman of the Law School Examination Board, stated that similar faculty

revisions had happened in the past, although neither would give names nor details (Cotler believed that a similar incident had last occurred in the early seventies).

According to Cotler, the exam papers in question were not actually re-evaluated; rather, the Faculty employed what he described as a formula reassessment based on Scott's original marking. Some borderline F's were raised to D's, and similarly high D's to C's and C's to C+'s, with grades above C+ remaining

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## PRACTICAL AND MORAL ASPECTS OF CRIMINAL LAW

by Brigitte Catellier

In society, different people fill different roles. In the field of criminal law, there are the police, the Crown, the judge, the jury, and the defence lawyer. As a defence lawyer, your role is to do all you can do to get your client acquitted and you must do so irrespective of your own appreciation of his guilt or innocence.

That's your role. Don't judge your client, just get him off!

These were the first comments of Gerry Zigman, a practising lawyer who was invited by the Criminal Law Group last Wednesday to speak on "Practical and Moral Aspects of Criminal Law."

Zigman's statements on the practical aspects of criminal law were very general and not particularly enlightening. He said that the key in a defence is

preparation for trial, which means mastering your facts and knowing your law. (This is equally applicable in many other fields of law). He added that in your relationship with the police and the Crown, be polite but firm, very firm. They must know you're a fighter. Furthermore, he stressed the fact that the only reason for your presence in the courtroom is to win your case, but you must follow the rules and act honestly. A good, hard,

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# ANNOUNCEMENTS

## L.S.A. Election Information

All students please be advised of the following exciting LSA election information.

Nominations will be accepted for the following positions:

- 1) President
- 2) Vice-President, Civil Law
- 3) Vice-President, Common Law
- 4) Vice-President, University Affairs
- 5) Secretary
- 6) Treasurer
- 7) Student Representative on Faculty Council (three undergraduate positions; one graduate position)
- 8) Class President, BCL II
- 9) Class President, LLB II
- 10) Class President, BCL III
- 11) Class President, LLB III
- 12) Class President, BCL/LLB IV

Relevant Dates include:

- 1) nominations commence Wednesday, March 12
- 2) nominations close Tuesday, March 18
- 3) campaigning begins Thursday, March 20
- 4) campaigning ends Tuesday, March 25
- 5) meet the candidates assembly Wednesday, March 26
- 6) Election Day Thursday, March 27.

Details with respect to nomination procedures and election regulations will be posted in due course. Thank you for your attention.

In response to a manifest need for recognition of the special merits of certain faculty members, an ad hoc committee has instituted a new award:

### **The Pigeon Award for Humiliation of Lawyers (to be)**

Nominations are sought for the first laureate. Consideration will be given to the candidate's proven excellence in a) adding to a student's generally low level of self-esteem, b) affecting a significant number of students in the manner indicated.

This contest is limited to professors and instructors of McGill Faculty of Law.

A candidate will be ineligible should he/she be declared a winner for three successive years.

Nominations may be dropped in the PIGEON box at the L.S.A. office.

### **Institute of Comparative Law**

The Institute of Comparative Law is organizing, as part of its Seminar Series, the following seminar:

--Wednesday, 29 January 1986 at 12 noon, at 3647 Peel, Room 101. The guest speaker will be Dr. Brian Semcow of the International Relations Division of the Royal Bank of Canada. He will speak on "Current Liberalization and Deregulation of Japanese Banking Law".

## **Lawyers for Social Responsibility**

One of the LSR's aims is to encourage legal research in the areas of peace, disarmament and related issues. McGill students were among the prize winners in a national paper competition organized by the LSR last year, and it is hoped that LSR National and LSR McGill will be able to assist in arranging for grants to students to do research in the summer starting this year. Towards this end, LSR has activated a Research Committee which plans to:

- 1) try to get a copy of all student papers being written in relevant areas at McGill;
- 2) join the National Research Clearinghouse of LSR;
- 3) arrange for students to present their research at "round tables";
- 4) obtain bibliographies from the many groups and organizations involved in the area;
- 5) explore opportunities for funding;
- 6) ?

If you've written/are writing a paper on disarmament, international law, arms control, militarization and their relationship to issues of human rights, the environment or a related topic, please let us know. If you'd like to join the work of the committee, please contact us. Leave either of us a note at SAO.

**Laurie Weston  
Kerry Buck  
LSR Research Committee**

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## Constitutional Cont'd from p. 1

unchanged. No one on the Faculty read over the exams except for Cotler, who as co-examiner had the duty of reading the failing papers.

Bettina Karpel, President of the Law Students Association, described the change as a positive step, primarily because it demonstrates that the faculty members themselves now recognize the need to justify marks and to set uniform standards over different professor's sections and courses. "Students should not be terrorized because their last name happens to begin with a certain letter," stated Karpel. She gives credit for the change in faculty policy to Dean Macdonald's new administration.

### Professor Scott

Professor Scott described Faculty Council's actions as a "foolish and dangerous precedent", and said he could not recall anything similar having been done before. He feels that academic standards, especially in professional schools, should be absolute, and should not be set by the level of the student body. It is clear to him that there are many people with law degrees who do not deserve them. Although this occurs more frequently in other universities, McGill is not exempt.

When it was suggested to him that in other schools, or other faculties, consistently poor performance by a teacher's classes year after year would reflect as much on the teacher's teaching abilities as on the students, Scott replied that he had total confidence in his methods. By the end of the year, he

said, the majority of his students will be doing competent professional work because he is insisting on it now. He considers exams to be his most important pedagogical tool, and mentioned that the current policy of placing top-marked exams on reserve in the library was instituted at his suggestion.

### Dean Macdonald

Dean Macdonald limited his comments to the process leading up to the marks meeting. According to Macdonald, the marks an examiner submits to the marks meeting are recommendations. After the failing papers (if any) are read by the co-examiner, the marks in a course are sent to the Examination Board. The jurisdiction of the Board is basically the examination of the range into which the marks fall. If these seem to be significantly different from normal marks' distribution, the Exam Board will ask the Chairman to speak to the instructor to ask him for his comments. The Examination Board Chairman presents the grades to Faculty Council and moves that they be adopted globally by Faculty Council. At this point professors can ask questions either generally, or with respect to a specific set of marks.

Dean Macdonald would respond to questions regarding the winter term results in Scott's Constitutional class only by stating, "presumably there is a lesser degree of unhappiness in the Faculty right now, but by ricochet there is a degree of uncertainty about what the future holds. Some empirical research by students might be useful to find out what correlation if any there might be between the Christmas exam and final

exam results in Professor Scott's Constitutional section."

### First-Year Students

A number of students from Scott's Constitutional Law class were asked to comment both on Scott's original marks and on the second set of marks which were altered by subsequent administrative intervention. Most students felt strongly about the issue. Some refused to comment "on the record". Others agreed to be interviewed. Opinions varied greatly.

According to Doug Peel, Scott sets an objective standard which, albeit demanding, teaches students the law once it is reached. That is, Scott does not tolerate mediocrity. The high number of failing, or low grade marks, can be justified by regarding them in their proper light -- as a motivating factor to encourage students who didn't do well first term.

The above viewpoint, however, seems to be one of a small minority. A more middle of the road sentiment is offered by Michael Magonet, who believes Scott to be an excellent, interesting, and charismatic professor who commands respect. However, Magonet goes on to say that Scott is a perfectionist who applies his stringent standards to students. He suggests instead that Scott should mark any one student relative to his peers. When asked about how he would reconcile the differences in grades between the two Constitutional Law classes, he (as well as a number of other students), responded, "Wait until finals". The implication is that a much lower failure rate occurs on Scott's

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#### 4 Quid Novi

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#### Constitutional Cont'd from p. 3

final grades than on the midterm.

However, the majority of the students in Scott's Constitutional class don't seem quite as agreeable to either this situation or to Scott's marking system. One student, who wishes to remain anonymous, stated that a consensus on several points was reached by the majority of students in Professor Scott's class. They are as follows:

1) Given the heavy reading workload of the course, it was unfair that a question worth 70% of the total mark was on a topic covered in the last two classes.

2) The course had not succeeded in preparing students to write an exam based exclusively on the manipulation and interpretation of statutes.

3) A low mark from Scott bore no relation to the marks received by the same students in other courses.

While some students have commented that such low marks work to motivate students, this anonymous student stated the arbitrariness of these exam results has left students frustrated and demoralized. "For the scholarship recipients in this class who must maintain a solid GPA, for students looking forward to teaching assistant positions and for all who will feel compelled to explain a poor mark to a potential employer, it is little consolation that low marks from Scott are a notorious aspect of McGill Law School."

The anonymous student went on to examine the function of exams and marks. First, this student

stated, they provide the Faculty with a means of discovering how well materials have been learned. Second, they help students assess their own performance. Third, they allow outsiders to evaluate McGill graduates (considering that in Scott's class over 50% of the students (21 out of 39) ended up with F's or D's, while Professor Cotler and de Mestral gave F's or D's to only 4% (4 out of 77) of their students, the marks speak for themselves).

The anonymous student queries whether such functions are served in any way when the marks are so out of line with the rest of the Faculty. This student queries whether the Faculty concludes that the poorest students were randomly clustered into one section, or whether students think their efforts were for naught, or whether outsiders will consider these candidates inconsistent and weak? In response to Scott's comment in the Daily: "I do not accept that standards are to be set by the student community. I do not accept that there is a politically acceptable distribution of marks", this student responds that while most agree that marks should not be political, the fact remains that marks must be meaningful.

The anonymous student felt that the administration should be commended for recognizing the problem and taking action. This student felt, however, some serious questions about legal education at McGill remain to be addressed.



# Sugar and Spice

## A Saga of Law Firm Interviews

by Gail Pinheiro

Everything begins with a trend. (1) Everyone in this Faculty who has been interviewed in a law firm has a collection of stories and parodies to relate. There may, however, be signs of the proverbial light at the end of the tunnel. But first...the stories.

As a black, female graduate of an American Ivy League University I always feel like a bit of a sociological phenomenon when I interview at law firms. Anyhow, I guess it all began at Ogilvy, Renault.

### Ogilvy

I had met a partner in Ogilvy at a party and he encouraged me to submit a C.V. When I got to the firm things immediately got off on the wrong foot.

Receptionist: Are you an entertainer?

Me: Excuse me?

Receptionist: Are you with the singing group...

Me: My dear you've obviously never heard me sing. I'm here for an interview.

Then came the interview. After we'd gone through the inevitable pleasantries came some of the more difficult questions.

Ogilvy: I see you do some bodybuilding. Do you play tennis?

Now the relationship between these two statements baffled me a bit but I was ready.

Me: Not very well but I took lessons at Vassar, of course.

This seemed to placate them. The real crusher question however was still to come.

Ogilvy: Tell us,...why is a feminist applying to a corporate law firm?

This required a little more thought. What were they getting at? How would I feel about working for the very male establishment that had oppressed my sisters and patted their bottoms since the emergence of the corporate structure? What should I answer: "I'm trying to determine whether sedition from within is the best method of revolutionary activity?" I held my tongue and decided to try another firm: Martineau Walker.

### Martineau Walker

Again things seemed to get off to a bad start. They kept me waiting for a half hour. While I was waiting, an old, black man walked into the reception area.

Receptionist: (taken aback): Yes sir, can I help you?

Man: Yes. I have an appointment with Mé...

She looks from him to me.

Receptionist: Are you together?

Me: (spitting nails): No.

We just look alike.

The interview was your standard law firm interview (concluding with another question as to the state of my tennis skills), until they asked:

Martineau: Tell us, ...do you feel there's racial prejudice in Canada?

Oh dear, I thought, how do you get out of this one? Again I held my tongue, and decided to brush up on my tennis game and to try Toronto.

In Toronto I found the atmosphere significantly more amenable -- they seemed to realize that law students had talents and aspirations and should be treated (and paid) like human beings. But again, the fact is I was one of the first black applicants these firms had ever interviewed. After two (not one but two) interviews at McCarthy I later found out that they were reluctant to give me an offer before Wednesday because they were afraid I wouldn't fit in. [You know, let in one and there goes the firm; reggae music in the halls, reefer smoke in the library, tripping over basketballs in the cafeteria]. And then came Borden & Elliot.

Borden: Tell us, ... do you run?

(I thought, this must be heaven). As it turned out, I accepted an offer with Borden because I thought they were the most progressive firm I'd seen. Time



# Law Careers Conference

Some say that the role of the law school is to challenge the intellectual skills of its students in an environment that promotes such a purpose. Others contend that the law school is designed to enable its students to learn the practical side of the law, and to ensure that these students will one day be ready to assume their role in society as "lawyers". Whether you agree with the first or second of these propositions, it is not surprising that most of us seem to agree that the ultimate *raison d'être* of the law student is to secure employment when he or she graduates.

Today, more than ever, this pursuit is creating

anxiety for us as we become bewildered by the myriad of law firms born here in Montreal, and of course in Ontario. Do not despair, relief is finally on the way.

On Tuesday, February 4th, the McGill Faculty of Law Career's Committee is organizing a one-day **Career's Conference**.

This year the Committee has devised a substantially different approach than that which has existed in past years in an endeavour to enhance student participation. Law firms will set up booths on the second floor in Rooms 202, 203 and 204. Representatives of these firms will be available to speak with students about their **areas of le-**

**gal practice, available student programs, and application procedures.**

The response of the law firms that have been invited has been excellent and most enthusiastic. Representatives from twenty-three law firms will attend the one-day event and look forward to meeting McGill law students. The success of this day and your participation will reflect on the reputation of this Faculty. These firms are here to meet you, so make sure you get over and meet them!

## The Careers Committee

### Announcements Cont'd from p. 2

#### SKIT NITE

Deadline for Submission of Skits  
is Friday, February 21.

Start working on your skits now. If you want to discuss ideas leave a note to Chris Allard on the LSA door, or get in touch with Vince Gallo or Teresa Scassa.

#### PARTY

The Law Faculty is having a party Thursday, January 30, 1986 at 9:00 p.m. at Club Jodee's (2025 Drummond, above du Maison-neuve).

The Faculties of Anatomy, Biology, Dentistry and Medicine will join us at this party.

No Cover Charge!  
See you there!

### Criminal Law Cont'd from p. 1

clean fight will bring you respect.

On the subject of plea bargaining, Zigman stated that the first goal of a defence lawyer is acquittal, and, when you can't get that, you discuss plea bargaining. What he likes to do is to agree with the

Crown prosecutor on a common suggestion which they present to the judge. Whether that suggestion will be accepted or not depends on reputation, integrity, and connections.

What are the moral aspects of criminal law? How can you represent a client who is guilty? Moral aspects have no place once you decide to take a case; you cannot let your own personal feelings get in the way, says Zigman. "What if a person comes into your office and says:

"I'm guilty?" asks a student. "Your next question is: Can the Crown prove it?" answers Zigman.

### Interviews Cont'd from p. 5

seems to have proven my initial impression correct. Borden now has a new summer student project which is well worth considering. In addition to paying summer students a salary while in Toronto, they will also pay your tuition for the next year. The message, as I see it, is clear. "We're looking for a few talented people and we're willing to show our good faith up front from the pocketbook." Let's hope this type of attitude toward firm/student relations does become a trend. Lord knows that large firms have been a little too arrogant for a little too long.



# PLACEMENT CENTRE

## Ontario

The firm of BORDEN & ELLIOTT are inviting applications from students completing their second year of law study for their Summer Student Program. The Summer Student Program is intended to allow the student to give practical application to courses studied in the law school curriculum by exposure to practitioners in their areas of speciality. The program offers some flexibility to accommodate the student's interest outside of the area of concentration. Plus their Program offers a unique scholarship. The summer students are remunerated in accordance with the profession's standards and, upon completion of the summer program, will each receive a Borden & Elliot Scholarship which will be in the amount of their tuition for the upcoming academic year. Resumes should be sent no later than February 7, 1986, to:

Dennis O'Connor, Q.C.  
Chairman, Recruitment Committee  
Borden & Elliott  
250 University Avenue,  
Suite 500  
Toronto, Ontario  
M5H 3E9

Refer to Posting #45.

WEIR & FOULDS have advised of their intention to hire four to five students for the summer of 1986. Applications from students in second year are requested prior to February 14, 1986. As applications are received interviews will be set up for February 17, 18 and 19. For further details please consult Posting #46 in the Placement Centre and refer to the copy of the firm's brochure also available in the Placement Centre.

CRAWFORD, WORLING, EWART, MCKENZIE & DONNELLY would be pleased to receive

applications from our graduating class for two articling students. Applications may be sent directly to Mr. K. William McKenzie of the named firm, Box 520, Orillia, Ontario, L3V 6K4.

Refer to Posting #47.

TILLEY, CARSON & FINDLAY expect to hire at least two students for summer positions and would be pleased to receive applications with resumes from second year students in this Faculty. Interviews will be conducted after Monday, 17 February, 1986. Interested students should submit their applications as soon as possible to:

Tilley, Carson & Findlay  
44 King Street West  
Suite 2100  
Toronto, Ontario M5H 1G4  
Attention: E.F. Merringer

Refer to Posting #48.

FASKEN & CALVIN will be hiring six second year students this coming summer and would ask that interested students submit their applications as soon as possible. Interviews are being scheduled for after the 18th of February to comply with the Guidelines of the Law Society of Upper Canada. Please forward application to:

Mr. David G. Stinson  
Chairman, Student Articling Committee  
Fasken & Calvin  
Box 30, Toronto Dominion Centre  
Toronto, Ontario M5K 1C1

Refer to Posting #49.

ARTICLING STUDENT: Two man law firm in Milton requires one student for the 1986/87 articling year. General practice. Interested applicants should forward their resumes or contact HUTCHISON, THOMPSON, HENDERSON & MOTT, Barristers and Solicitors, 264 Main Street East, Milton, Ontario, L9T 1P2.

Attention: Mr. Howard Mott

(416)878-2841.

Refer to Posting #51.

MCCARTHY & MCCARTHY have announced their intentions to hire 15 law students for the summer of 1986 to work in various areas of the firm. They expect that approximately two-thirds of these students will have completed the second year of their legal studies while the other third will have completed the first year. Applications including c.v.'s, copies of all university and law school grades to date, should be forwarded as soon as possible to:

Gregory J. Howard  
Chairman, Student Recruitment Committee  
McCarthy & McCarthy  
P.O. Box 48  
Toronto Dominion Centre  
Toronto, Ontario  
M5K 1E6

Refer to Posting #54.

AIRD & BERLIS have submitted a copy of their notice of AIRD & BERLIS SUMMER STUDENT PROGRAMME. Applications for summer employment should be made after first term marks are available and applicants should forward a complete resume. For further details please refer to Posting #52.

GOODMAN & CARR is extremely interested in employing students for summer positions and also have articling positions available. Interviews for summer positions take place in February prior to the summer of employment. This firm is interested in employing students who are currently in their first or second year of the LL.B. programme or their second or third year of the National Programme. Details concerning this firm may be had by consulting Posting #55.

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# CHANCELLOR: Day & Night

by Debbie Raicek  
and Lisa Steinberg

As the ice creeps slowly over our bubbling metropolis this month, tempers fuel the fires that keep the cast of Chancellor: Day & Night warm. Greed for grades, big league course bumping, fading sun tans and the usual amount of power, lust and strife pervade the atmosphere.

This week the plot focuses on the high finance wheeling and dealing done by the characters of Chancellor: Day & Night. In an effort to change their image and augment their income, the Claw Journal sacrifices the pristine virtue of their male members and has them pose for a calendar (in which Panda reveals more than his paws) to rival that of "Men of the NFL". The only company whose sales outstrip the Claw Journal is the first year distributors who rake

in millions from their bumper stickers, T-shirts, and buttons, upon which is emblazoned the slogan "I Survived Scott's Slaughter."

Meanwhile, upstairs on that very ominous second floor the Cartel (that international, power-wielding group of men and women) exits from the marks meeting chanting: "Tis a far far better thing that we do than we have ever done before." Down below, desperate pleas can be heard from the wounded: "Beam me up, Scotty." In response to these pleas, Great Scott responds to Dean Big Mac, "I can't do it, Captain; their circuits will overload."

Dean Big Mac has no time to retort as he and the rest of the Cartel (that international, power-wielding group of men and women) are about to depart

on their Caribbean retreat. Travel arrangements have been made by Professor Name-that-Treaty who decided to temporarily give up teaching when he was offered his dream career -- a full-time position as a writer for the Quid Pro Quo! He now has his own column entitled, "Travels with Ivan".

Meanwhile, the producers of Chancellor: Day & Night have kept up with the mounting network pressure for big name stars. After Dynasty added George Hamilton to their cast, Chancellor: Day & Night countered by adding another Fundamental Bridge to theirs. So far the network ratings have been favourable in the continuing battle of the network stars. To date no other cast changes have occurred although some have been suggested. To find out for sure, stay tuned for Chancellor: Day & Night... Coming Soon...

Placement  
Cont'd from p. 7

## Quebec

CAIN LAMARRE LAROUCHE are looking for two third year students to work in their offices during the summer of 1986. Interested applicants should forward their C.V.'s plus transcripts to:

Me Francois Lamarre  
Cain Lamarre Larouche  
110, rue Racine est  
C.P. 820  
Chicoutimi (Québec)  
G7H 5E8

Refer to Posting #50.

The firm of RIVEST, CASTIGLIO, CASTIGLIO, LEBEL ET SCHMIDT are looking for a third year student to work

during the summer of 1986.

Interested students should forward their c.v.'s before the end of February to:  
Me Marcel Rivest of the named firm  
441, rue de la Gauchetière est  
Montréal (Québec)  
H2L 2M7

Refer to Posting #56.

## CAREERS CONFERENCE '86 NEXT TUESDAY!

Over 23 law firms and other areas of legal practice will be at **YOUR** disposal to answer all **YOUR** questions about the practice of law.

Twenty-seven representatives will be here to meet **YOU**. Make sure **YOU** meet them.

**Tuesday February 4th**  
**1:00 - 3:00 p.m.**

Schedules and lists of participants may be picked up at  
SAO or the LSA office.